

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

BARRY SINGLETON,

Plaintiff,

-v-

UNITED TEAMSTER PENSION FUND-A,

Defendant.

USDC SDNY  
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DATE FILED: 9/18/2020

No. 18-cv-8044 (MKV)  
ORDER TO SHOW CAUSE

MARY KAY VYSKOCIL, District Judge:

Pending before the Court is the motion of Defendant United Teamster Pension Fund-A (“the Fund”) for summary judgment in this case [ECF #37, 38, 39, 40]. That motion was filed on September 12, 2019. Plaintiff Barry Singleton never filed a response, even though the Court has granted him several extensions of time to respond [ECF #51, 54, 55] and has warned him several times that this case might be dismissed for failure to prosecute and to comply with court orders, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure [ECF #19, 55].

Singleton initiated this action by filing a complaint on September 4, 2018 [ECF #1]. The Fund filed a motion to dismiss Singleton’s complaint on November 2, 2018 [ECF #7, 8, 9], but Singleton failed timely to respond to that motion. At the Initial Pretrial Conference on December 14, 2018, the Court granted Singleton leave to file an amended complaint by January 14, 2019, which was reflected in the Court’s Scheduling Order [*see* ECF #15, 18, 19]. Singleton, however, ignored this Court-ordered deadline [*see* ECF #15, 19]. In an Order dated February 22, 2019, the Court admonished Singleton that, if he failed to take action by March 1, 2019, his case might be “dismissed for failure to prosecute pursuant to Fed. R. Civ. P. 41(b)” [ECF #19].

Singleton filed an amended complaint on March 1, 2019 [ECF #20], and the Fund timely answered [ECF #22]. The Fund later filed a motion for summary judgment on September 12, 2019 [ECF #37, 38, 39, 40]. More than a year has elapsed, and Singleton has never responded to the Fund’s motion for summary judgment, notwithstanding that the Court granted Singleton several extensions of time to file his response [*see* ECF #51, 54, 55]. In an Order dated February 3, 2020, Magistrate Judge Fox explained that Singleton had ignored the Court’s Order directing him to respond by January 21, 2020 [ECF #55]. He directed Singleton to file his response by February 6, 2020 and admonished him that “failure to comply with a court order may result in sanctions, including the dismissal of an action.”

However, Singleton did not respond to the Fund’s motion for summary judgment, or take any other action, by February 6, 2020. Instead, on February 7, 2020, Singleton filed a letter requesting a conference about a supposed issue with discovery, which Magistrate Judge Fox denied [*see* ECF #57, 58, 60]. Singleton did not thereafter file a response to the motion for summary judgment, nor did he request a further extension of time to file his response. In a letter dated February 14, 2020, the Fund stated that, because Singleton failed to respond, the Fund declined to file a reply brief, and the Court should deem its statement of material facts in support of its motion admitted and grant its unopposed motion for summary judgment, *see Jackson v. Fed. Express*, 766 F.3d 189, 194 (2d Cir. 2014) [ECF #61]. Singleton did not respond to that letter, nor has he taken any other action to prosecute this case since February.

Accordingly, IT IS HEREBY ORDERED that, by September 23, 2020, Singleton shall show cause why the Fund’s motion for summary judgment should not be granted and why his case should not be dismissed pursuant to Rule 41(b). IT IS FURTHER ORDERED that, by

September 23, 2020, Singleton's counsel shall file a letter showing cause why he should not be sanctioned for failure to comply with court orders.

**SO ORDERED.**

**Date: September 18, 2020**  
**New York, NY**

Mary Kay Vyskocil  
**MARY KAY VYSKOCIL**  
**United States District Judge**